



Comptroller General  
of the United States

Washington, D.C. 20548

Relock

## Decision

**Matter of:** Institute for Combat Arms and Tactics, Inc.

**File:** B-237404

**Date:** October 30, 1989

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### DIGEST

1. Protest based on allegedly unduly restrictive specifications, which were apparent from the face of the solicitation, is untimely where not filed until after award.
2. The General Accounting Office (GAO) will not consider the merits of an untimely protest under the significant issue exception to GAO's timeliness requirements where the issue raised--allegedly unduly restrictive specifications--is not a matter of first impression or of widespread interest to the procurement community.

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### DECISION

The Institute for Combat Arms and Tactics, Inc. (ICAT), protests request for proposals (RFP) No. M67004-89-R-0094, issued by the Marine Corps Logistics Base (MCLB), for a Shoot-Don't-Shoot Stress Training Device. This firearms training simulator is intended for use by military police personnel in a stressful training environment to assist in the development of techniques necessary for rapid decision-making regarding the use of deadly force. We dismiss the protest.

The protester contends that the MCLB did not perform adequate advance procurement planning and market research prior to the issuance of the IFB. The protester contends that the specifications are therefore unduly restrictive of competition because they require a video disk developed by the Federal Law Enforcement Training Center, which serves to exclude the protester's branching interactive video training system.

ICAT's protest of the specifications is untimely since the basis for the protest should have been apparent to ICAT from reading the RFP. Under our Bid Protest Regulations, 4 C.F.R. § 21.2(a)(1) (1989), a protest based upon alleged

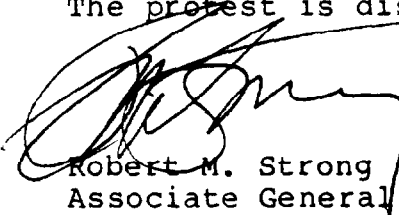
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improprieties in a solicitation which are apparent prior to the closing date for receipt of initial proposals must be filed at either the contracting agency or our Office before then. Fryer Eng'g, B-233835, Mar. 17, 1989, 89-1 CPD ¶ 284.

In this instance, the closing date was July 31, 1989. However, the record indicates that ICAT did not protest this matter to the procuring activity until August 18, 1989, and we did not receive ICAT's protest until October 11, 1989. As the protest of this issue is untimely, we will not consider it on the merits.

ICAT argues that we should consider its protest under section 21.2(b) of our Bid Protest Regulations, which contains an exception to our timeliness rules for issues that are significant to the procurement community. In order to prevent the timeliness requirements from becoming meaningless, we strictly construe and seldom use the significant issue exception, limiting it to protests that raise issues of widespread interest to the procurement community and which have not been considered on the merits in a previous decision. S.T. Research Corp., B-232751.2; B-232751.3, Feb. 24, 1989, 89-1 CPD ¶ 202. ICAT's protest grounds concerning, in essence, the agency's allegedly restrictive specifications are not unique because they have been considered in the past. See Auto-X, Inc., B-231480.3, Sept. 28, 1988, 88-2 CPD ¶ 292. We therefore will not consider this protest on the merits under our significant issue exception.

The protest is dismissed.



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